

No store ever gets "big enough" to curtail its advertising—no more than it gets big enough to curtail its purchases of new stocks.

The Courier-Journal.

A want ad. is about the only thing that can "serve two masters"—the man who publishes it and the man who answers it.

VOL. CVII. NEW SERIES—NO. 13,898.

LOUISVILLE, SATURDAY MORNING, JANUARY 19, 1907.—12 PAGES.

PRICE (THREE CENTS. (ON TRAINS FIVE CENTS.)

The Weather.
Forecast for Saturday and Sunday:
Kentucky—Rain Saturday and probably Sunday; colder Sunday in central and west portions.
Indiana—Saturday and Sunday rain or snow; colder and fresh, brisk to south winds, becoming northwest Sunday.
Tennessee—Fair Saturday, except rain at night in west portion; Sunday rain; colder in west portion.

THE LATEST.

John R. Walsh, former president of the Chicago National Bank, which closed its doors December 16, 1905, was yesterday indicted by the Federal grand jury for alleged misconduct in the management of the finances of the bank. The indictment is based upon many separate transactions, in each of which it is claimed the funds of the bank were unlawfully used, and contains 182 counts, based upon the financial operations conducted by Mr. Walsh.

The Ohio river continued to rise yesterday at all points from Pittsburgh to Cairo, reaching the flood stage at Louisville and above. Much damage has resulted and in Newport and Covington 10,000 families are homeless. Further rise is expected, as the tributaries are all pouring in large quantities of water. The Kentucky river is rising at the rate of seven inches an hour. Rain is falling all along the Ohio valley, with more rain predicted for to-day.

James Hargis lost at all points before the Court of Appeals, which handed down two opinions yesterday in cases in which he is involved. The indictment in Fayette county, charging the Cockrell murder, was held to be good. The court also directed Special Judge Carnes to draw a jury to try the Cox case from the jury wheel and further directed him in the trial of the case, although revoking the writ of prohibition directed against him.

The situation at Kingston, Jamaica, is appalling, and reports indicate that the recent earthquake disaster is developing into one of the greatest calamities of modern times. It is believed that thousands of persons have been killed. The shore line has disappeared in many places, and the city seems about to sink into the sea.

Speaking for 50,000 negroes who compose its membership, the Grand Council of the National Industrial Association of America, in convention at Baton Rouge, adopted a resolution endorsing President Roosevelt's action in dismissing the negro soldiers at Brownsville.

The Texas Legislature has adopted a resolution providing for the election of a Senator on January 22. The indications are that Senator Bailey has won his fight, the substitute investigation resolution offered by his friends having been adopted in the House.

Senator Blackburn's amendment to the resolution anent the Brownsville affair has caused consternation in the Republican camp, and an effort will be made to table it when the Senate meets on Monday.

The refusal of a priest to bless the remains of two workmen killed in a street fight caused a riot in a church at Lodz, Russian Poland, in which eight persons were killed and thirteen wounded.

Judge William Carnes, special judge to try the men accused of the murder of Dr. B. D. Cox, at Jackson, held court for a few minutes to enter an order ending the special term. He remained in Jackson only a few minutes.

According to information received from the Rivers and Harbors Committee, the Tennessee river will receive about \$500,000 and the Cumberland river \$550,000 in the forthcoming Rivers and Harbors Bill.

The House yesterday, by an overwhelming vote, adopted an amendment increasing the salaries of the members, together with the President, Vice President, Speaker and members of the Cabinet.

In the lower branch of the Arkansas Legislature a bill fixing a maximum rate of two cents a mile for first-class passenger rates in the State was passed by an overwhelming vote.

A settlement of the Lexington, Nicholasville and Harrodsburg post-office fights will be made next week, First Assistant Postmaster General Hitchcock said yesterday.

A bill has been introduced in the House giving the President power to retire any United States Judge when in his judgment it would promote the public welfare.

The Southern Cotton Association, in convention at Birmingham, adopted a resolution endorsing President Roosevelt in dismissing the negro troops at Brownsville.

Both a two-cent fare bill and a measure to prevent the furnishing of free transportation to State officers has made its appearance in the Tennessee Legislature.

The first election returns received at St. Petersburg from the Transcaucasian territory of Russia indicate an overwhelming victory for the radical element.

LEAKING DIKE MAY GIVE WAY

Only Thin Wall Protects the Little City.

Shawneetown In Terror From Flood.

Whole Place Under Water Many Feet Deep.

Cloudburst Adds Deluge To Raging Water.

DANGER BELOW PITTSBURG.

Evansville, Ind., Jan. 18.—[Special.]—Uncertainty and fear have filled the hearts of the people of Shawneetown, Ill., several miles below here, all day and to-night men are patrolling the big Government levee that stands between the town and the river. A small leak was discovered in the levee this afternoon and bags of sand were at once procured and men are working to-night trying to repair the break. Mayor Kratz was talked to at 8 o'clock to-night over the long distance telephone and said he believed that the break, which is a small one, will be repaired and he does not consider the town in as great danger as last night.

The entire town of Shawneetown is submerged and water stands in the streets from one to thirty feet deep, and every family that has not fled from the town is living in the second story. All the factories in Shawneetown have shut down. A cloudburst occurred there this morning, and torrents of water flooded the panic-stricken town and several houses were demolished.

Tents For Sufferers.

Mayor Kratz received a telegram this afternoon from Gov. Deneen stating that 100 tents had been shipped to Shawneetown and would arrive there some time Saturday. These will be sufficient to shelter the people who have left the town and are living on the hills without shelter. Provisions are running low and Mayor Kratz today sent here and to neighboring cities asking for aid.

Shawneetown, which lies in an elbow of the river, is protected by a dike, on the east and south, from the water of the Ohio. When the river is in flood the surface of the water is far above the street level in the lower part of the town. In April, 1893, the city was inundated by the river, which broke through the dike on the northeastern side, and twenty-nine persons lost their lives. The lower part of the town was under water for several days, and a very heavy property loss was the result. The dikes were repaired after this calamity, and it was believed that they could withstand any stage of water which might prevail in the river.

Relief Committee Formed.

The Ohio river here is over three miles wide, and in some places between here and Paducah, Ky., it is ten miles wide. This afternoon Mayor John W. Bohne issued a call for a citizens' meeting for Saturday night, when committees will be appointed to look after the flood victims that are being brought to this city. Water began to creep into the swamps and cellars of the city to-day. The stock that is being brought here is being quartered at the Tri-State fair grounds at the edge of the city, and it is likely that the amphitheater will be used to house the refugees.

The call of the Evansville Business Association yesterday, asking all boat owners to send out their crafts to-day to the lowlands to bring in the refugees, bore results, and boats started out early this morning for the flooded district. The gasoline launch Batchelor rescued three families near the "cut-off" on the Kentucky side, who had been living in the second story of their houses for several days and had had nothing to eat. They were nearly famished when brought here to-night. Mrs. James Haynes and two children, who were rescued, said there were many families between here and Owensboro, Ky., on the Kentucky side, that were in grave danger of destruction, as they live in shanties built on knobs, and the water is now coming up over their cabins.

Shantyboat Wrecked.

Lem E. King and wife, who were rescued, report that a man living on a shantyboat was probably drowned last night, as they saw his boat partly wrecked yesterday and the man was crying for help, but no one could reach him. Hogs and cattle were seen on tops of buildings to-day, and boats were sent out to rescue people who could not take time to try and save stock.

A cloudburst is reported in the vicinity of Cannelton, Ind., this afternoon. Water is backed up over the tracks of the Lincoln City and Cannelton branch of the Southern railroad, and it is reported to-night that trains will probably

ably have to be taken off Saturday or Sunday. Heavy rains are reported along the Ohio valley from Owensboro down to Cairo, Ill., and in some places the rain was the heaviest in months. Washouts are reported along the Southern railroad. The property loss will be heavy. A cloudburst was reported near Uniontown, Ky., but the exact damage done in that locality cannot now be ascertained.

Danger In New Channel.

Uneasiness still prevails among the people of Evansville in regard to the new channel that the Ohio river has formed at the Illinois Central, six miles above this city. The current in the new channel is growing stronger each day and many rivermen profess to believe that the new channel will be permanent and that when the high water recedes the city of Evansville will find itself left high and dry. Nothing can be done until the flood recedes, and this will be fully a week and perhaps longer. Reports received to-night from points along the Wabash river show that river is rising at a rapid rate and the let-up is not in sight. Heavy rains fell at various times during the day along Wabash river and also White river.

White River Rising.

Great alarm is still felt among the Evansville and Terre Haute railroad officials over the high water at Hazelton and men patrol the track to-night, and at the rate the White river is rising the waters will be over the tracks by Saturday night. The rainfall in Evansville for the last eighteen days has amounted to 7.36 inches, which breaks all records for this section. The weather observer here said to-night that more rain is expected to-night and intimates that the river might reach a stage as high as forty-nine feet. Saturday night. The rainfall in Evansville for the last eighteen days has amounted to 7.36 inches, which breaks all records for this section. The weather observer here said to-night that more rain is expected to-night and intimates that the river might reach a stage as high as forty-nine feet.

(Concluded On 3d Page, 1st Column.)

RELEASE SIGNERS FROM THEIR PLEDGE

APPELLATE JUDGE JOHN M. LASSING ISSUES STATEMENT

REGARDING PROPOSITION TO TAKE HOME TELEPHONE.

SAYS MUST BE HARMONY.

Frankfort, Ky., Jan. 18.—[Special.]—Appellate Judge John M. Lassing, who is the head of the syndicate that made the proposition to take over the management of the Louisville Home Telephone Company on the basis of a guaranteed 5 per cent. dividend, to-night gave out the following statement:

"Although more than three-fourths of the 13,000 shares of Louisville Home Telephone stock have been pledged to the proposition submitted in writing by Mr. George B. Cox, Mr. Joseph L. Rhinock and myself, together with several other persons, who are residents of Louisville, I am authorized to say that any stockholder who has signed the paper may withdraw his name at pleasure. Reports have come to us that some of the stockholders are uncertain as to whether the plan is as much to their interest as some other possible plan. We do not intend that any stockholder who has signed the paper shall consider himself bound thereby, either legally or morally, to deposit his stock in exchange for the 5 per cent. trustees' certificates which our company intended to issue. We shall not look over the management of the Louisville property if even a small number of our stockholders are to be released from any and all obligations that might have been incurred through signing our proposition."

SWEEPS HOUSES AWAY.

Kentucky River May Go Higher Than Ever Known Before.

Ford, Ky., Jan. 18.—[Special.]—The Kentucky river rose twelve feet more to-night, and to-day is rising at the rate of ten inches an hour. It was thought yesterday it was on a stand, but the continued rains above have caused it to take the second rise, and it is now predicted that it will reach a higher stage than the memorable flood of 1880, which was the largest that was ever known on the Kentucky river.

The raging current is sweeping everything on its onward course, leaving desolation in its path. A number of houses at Booneville, two miles south of here, were washed away last night. Lock No. 10, which would have been completed in two weeks, is being undermined by this water, and it will be only a matter of a few hours until it will be completely destroyed. This is the second time this lock has been washed out in the last twelve months, and will cause a loss of about \$200,000. A large fleet of timber belonging to the Indiana Lumber Company, of Jeffersonville, Ind., broke loose above lock No. 11 this morning and was washed down the river. The lumbermen on the Kentucky river have been quite fortunate, as this is the fourth time in the last six weeks, supplying them with sufficient logs to run them far into the summer.

FORCED OUT BY THE FLOOD

Hundreds On the River Front Seek Higher Levels.

Shippingport Deserted and Now Under Water.

Patrolling "Cut Off" As Precaution Against Danger.

MAYOR READY FOR RELIEF.

With Shippingport deserted and under water, people hurrying off "The Point" to higher ground and places of safety and the water climbing steadily to the streets from one end of the river front to the other, Louisville people are face to face with a flood situation which now threatens to equal the great one of twenty-three years ago. At 6 o'clock last night the gauge showed 34.4 feet in the canal, six feet past the danger line, but twelve feet still under the great flood of 1884, when the water went to 46.7 feet.

The rapid rise of the river caused some apprehension as to the stability of the "Cut-off," and members of the Board of Public Works inspected it yesterday. They are of the opinion that it will stand the strain. The board has three watchmen patrolling the Cut-off as a precaution. The poorer people of the river front who have been compelled to move from their homes are applying to the missions and charitable organizations for food and shelter.

The fire engine companies were pressed into service yesterday to move those who are too poor to pay for transferring their goods to higher ground. In some instances business warehouses have been offered as temporary quarters for the needy.

Creeping Up Fourth Avenue.

Muddy river water is lapping the sides of buildings on Fourth avenue, the spray in some instances reaching almost to second-story windows. At 6 o'clock last evening the river had crept to a point on Fourth avenue midway between Water and Main streets. A few more feet will bring the water to the edge of the curbing on Water street, between First street and Third street. Below Third street Water street is entirely submerged, the water almost touching at some places the lower portion of the iron girders running along the top of the Kentucky and Indiana bridge. Men and boys and some women in skiffs paddled about Fourth avenue, Fifth and Sixth streets yesterday. Men and women living in the flooded districts hung out of second-story windows and viewed the crowds of spectators standing at the edge of the water line. It is but a step from the apron of the ferry dock on this side of the river to Water street. Only a few feet of the big stone pier on top of which is the derrick house of the Ohio River Sand Company at the foot of First street is above water. The smokestacks of the ferry steamer, W. C. Hite miss the iron girders of the Big Four bridge when passing under only three feet. An additional rise of only three feet in the Ohio river at this point will put the sluggish, yellow water over the bank at the foot of Campbell street on the Point. In anticipation of this and a possible break in the cut-off at the head of the Point, residents of this low-lying section of Louisville began moving yesterday.

Shippingport Deserted.

Shippingport resembles a deserted village. The underpass of the Seventh-street station leading to the Kentucky and Indiana bridge is flooded. Everybody in the lowlands along the river front is terror-stricken and moving. The river rose yesterday at the rate of 11 inches an hour, and reports from above are to the effect that it is raining at all points between here and Pittsburgh. At 6 o'clock last night there were thirty-four feet of water in the canal and fifty-nine and six-tenths feet below the locks. During the flood of 1884 the water reached a height of forty-six feet in the canal.

Crowds On River Front.

All roads seemingly led to the river yesterday. From early morning until late at night there was a steady stream of eighteens on their way to the water's edge. Apparently it is a gala season for some, while to others the water spells disaster. Those who along the river front in the vicinity of the wharf boats was a busy one. Barges of lumber and brick were being unloaded as fast as men, shovels and teams could perform the work. Added to the natural excitement of the rush and bustle, the shouts of negro rousties and deep-voiced bosses thrilled the blood.

Board Watches Cut-Off.

Interest in the flood situation centered mainly about the Point yesterday. From every section of the city people streamed to the foot of Campbell street, walking along the railroad track on Fulton street to the Cut-off, the real seat of danger. Here men and teams worked like Trojans. A rumor became current early in the day that the Cut-off was defective in strength, and that at any minute it might give way and allow the wall of water to be holding back to rush in on the people of the lowlands. So persistent became this rumor that members of the Board of Public Works, headed by Charles B. Norton, chairman, met at the City Hall yesterday afternoon and, securing a three-seated conveyance, were driven to the point in question. They made a thorough inspection of the supposed weak place and saw to it that everything was being done to strengthen them. Unless the water rises to a point where it begins seeping over the barrier of rocks and dirt it is believed the Cut-off will stand the test to which it is being put. Should it break, however, and the wall of water flood the lowlands, those in its course could hardly hope to escape with their lives.

HAS PUT THEM IN A BIG HOLE

Blackburn's Amendment Makes Things Lively.

Republicans Confronted With Embarrassing Situation.

Efforts To Induce Foraker to Surrender His Position.

PRESIDENT AND LODGE CONFER

Washington, Jan. 18.—[Special.]—Senator Blackburn's masterly legislative stroke caused the Republicans to continue to squirm in the Senate to-day. The amendment proposed by the Democratic leader in the upper branch of Congress has made things lively for the majority. They turn this way and that way from Foraker to Roosevelt and where they will finally land is not known even to the insiders on the steering committee.

Confronted with the blunt proposition of either endorsing or repudiating the action of their own President by a direct vote involving a disruption of the party harmony and a split in senatorial Republican ranks, the situation has become awkward and embarrassing in the extreme. Under the leadership of Senator Aldrich a strong effort has been made to line up the Republican vote solidly in favor of tabling the Blackburn amendment on Monday.

If they can accomplish this even under the eleventh hour pretense that the legality of the President's action in making the "discharge" of the troops is not involved in the Brownsville question, the party organization in the Senate will still be under the imputation of insincerity and cowardice.

Leaders' Efforts.

In the effort to line up Republicans against the Blackburn amendment the leaders are arguing that the question of the power of the President has not been involved in the controversy. Still they are unwilling to go squarely on record to that effect by adopting the Blackburn amendment which would entirely eliminate that phase of the question. Many around the Capitol believe that the honest sentiment of Republican Senators is that the President exceeded his powers in making the discharge.

Senator Foraker forced this issue to the front from the beginning and has contended all along that the President should have afforded the discharged negro soldiers "their day in court." Senators Lodge and Spooner, who were relied upon to come to the defense of the Administration, both contended that the President had not gone beyond his power and the controversy between them and Senator Foraker raged around this very point, it having been admitted that the merits of the question of the guilt or innocence of the entire battalion fell off to the proposed Senate investigation.

Senator Aldrich, of Rhode Island, the titular floor leader of the Senate Republicans, who is pleading with Senator Blackburn to help the Republicans out of the hole into which he has thrust them and who, when he refused to aid them by withdrawing his resolution, went to Rhode Island to-day, leaving the formation of the Republican line in the hands of Senators Crane, Lodge, Spooner and Knox.

Some Bolters.

Throughout the day there were informal individual conferences, but at the day's end the effort to muster the Republicans unanimously in favor of tabling had failed. It was then understood that Senator Beveridge and some other Republican Senators had notified the Republican organization that they would support the Blackburn resolution, and thereby support the President.

The Republican chief expresses the hope and the belief that by the time that Monday arrives those few Republicans who want to vote for the Blackburn amendment can be whipped into line in favor of laying it upon the table. In order to allow the organization plenty of time to labor with this little handful of Republicans and convert them to the organization's way of thinking, the Senate adjourned over to-day until Monday.

On that day Senator Beveridge had been scheduled to make his speech in favor of child labor legislation, but in view of the fact that Brownsville matters will hold the center of the stage at one of the crucial points of the whole controversy, Senator Beveridge was today induced to postpone his child labor speech until January 23. Strong efforts are being made to induce Senator Foraker to vote to table the Blackburn amendment. Notwithstanding the fact that this is equivalent to asking Senator Foraker to make an ignominious surrender, the proposition is being made to him.

Efforts are under way to induce Senator Foraker to publicly declare from the floor of the Senate that he does not question the validity of the President's action in making the discharge, but simply seeks an investigation of the

track on Fulton street to the Cut-off, the real seat of danger. Here men and teams worked like Trojans. A rumor became current early in the day that the Cut-off was defective in strength, and that at any minute it might give way and allow the wall of water to be holding back to rush in on the people of the lowlands. So persistent became this rumor that members of the Board of Public Works, headed by Charles B. Norton, chairman, met at the City Hall yesterday afternoon and, securing a three-seated conveyance, were driven to the point in question. They made a thorough inspection of the supposed weak place and saw to it that everything was being done to strengthen them. Unless the water rises to a point where it begins seeping over the barrier of rocks and dirt it is believed the Cut-off will stand the test to which it is being put. Should it break, however, and the wall of water flood the lowlands, those in its course could hardly hope to escape with their lives.

There was a general exodus from the Point yesterday afternoon, it being moving day. Until then the "Pointers" had hoped against hope that the rise in the river would cease, and that their homes would not be flooded. Every day for the past week they have gathered in groups along the river front and watched the water as it encroached upon them inch by inch. They had been reassured by the fact that the Ohio, before but for years had managed to escape, Reports circulated yesterday, however, of a continued downpour of rain between here and Pittsburgh removed the last ray of hope and the threatened populace began moving their household goods with feverish haste.

Firemen To Rescue.

Wagons and teams of every description did service on the Point yesterday afternoon. Hundreds of teams, hauling household goods to higher ground, splashed through the mud of the poorly kept streets, bespattering the clothes of pedestrians. In front of every home on Campbell street, between the Louisville and Nashville

HAS PUT THEM IN A BIG HOLE

Blackburn's Amendment Makes Things Lively.

Republicans Confronted With Embarrassing Situation.

Efforts To Induce Foraker to Surrender His Position.

PRESIDENT AND LODGE CONFER

Washington, Jan. 18.—[Special.]—Senator Blackburn's masterly legislative stroke caused the Republicans to continue to squirm in the Senate to-day. The amendment proposed by the Democratic leader in the upper branch of Congress has made things lively for the majority. They turn this way and that way from Foraker to Roosevelt and where they will finally land is not known even to the insiders on the steering committee.

Confronted with the blunt proposition of either endorsing or repudiating the action of their own President by a direct vote involving a disruption of the party harmony and a split in senatorial Republican ranks, the situation has become awkward and embarrassing in the extreme. Under the leadership of Senator Aldrich a strong effort has been made to line up the Republican vote solidly in favor of tabling the Blackburn amendment on Monday.

If they can accomplish this even under the eleventh hour pretense that the legality of the President's action in making the "discharge" of the troops is not involved in the Brownsville question, the party organization in the Senate will still be under the imputation of insincerity and cowardice.

Leaders' Efforts.

In the effort to line up Republicans against the Blackburn amendment the leaders are arguing that the question of the power of the President has not been involved in the controversy. Still they are unwilling to go squarely on record to that effect by adopting the Blackburn amendment which would entirely eliminate that phase of the question. Many around the Capitol believe that the honest sentiment of Republican Senators is that the President exceeded his powers in making the discharge.

Senator Foraker forced this issue to the front from the beginning and has contended all along that the President should have afforded the discharged negro soldiers "their day in court." Senators Lodge and Spooner, who were relied upon to come to the defense of the Administration, both contended that the President had not gone beyond his power and the controversy between them and Senator Foraker raged around this very point, it having been admitted that the merits of the question of the guilt or innocence of the entire battalion fell off to the proposed Senate investigation.

Senator Aldrich, of Rhode Island, the titular floor leader of the Senate Republicans, who is pleading with Senator Blackburn to help the Republicans out of the hole into which he has thrust them and who, when he refused to aid them by withdrawing his resolution, went to Rhode Island to-day, leaving the formation of the Republican line in the hands of Senators Crane, Lodge, Spooner and Knox.

Some Bolters.

Throughout the day there were informal individual conferences, but at the day's end the effort to muster the Republicans unanimously in favor of tabling had failed. It was then understood that Senator Beveridge and some other Republican Senators had notified the Republican organization that they would support the Blackburn resolution, and thereby support the President.

The Republican chief expresses the hope and the belief that by the time that Monday arrives those few Republicans who want to vote for the Blackburn amendment can be whipped into line in favor of laying it upon the table. In order to allow the organization plenty of time to labor with this little handful of Republicans and convert them to the organization's way of thinking, the Senate adjourned over to-day until Monday.

On that day Senator Beveridge had been scheduled to make his speech in favor of child labor legislation, but in view of the fact that Brownsville matters will hold the center of the stage at one of the crucial points of the whole controversy, Senator Beveridge was today induced to postpone his child labor speech until January 23. Strong efforts are being made to induce Senator Foraker to vote to table the Blackburn amendment. Notwithstanding the fact that this is equivalent to asking Senator Foraker to make an ignominious surrender, the proposition is being made to him.

Efforts are under way to induce Senator Foraker to publicly declare from the floor of the Senate that he does not question the validity of the President's action in making the discharge, but simply seeks an investigation of the

HARGIS LOSES AT ALL POINTS

Indictment For the Cockrell Murder Held Good.

Judge Parker's Ruling Declared In Error.

Carnes Instructed To Draw Jury From Wheel.

Two Decisions In Feud Cases Handed Down.

VICTORY FOR COMMONWEALTH

Frankfort, Ky., Jan. 18.—[Special.]—Holding both the indictment returned in Breathitt county, charging the murder of James Hargis, to be properly drawn and valid, the Court of Appeals to-day, without a dissenting voice among the Judges, ordered a trial in each county under proper instructions. The court directed in the Breathitt county case that Special Judge Carnes have a jury drawn from the wheel, and exhaust this means before going outside for a jury.

With this injunction, and upon the statement of the Special Judge, made before the court, that it would be his pleasure to execute the law as declared by the higher tribunal, the court set aside the preliminary order staying proceedings at the special term called, and dismissed the petition for a writ of prohibition. The decision of the court in the Breathitt county proceeding was announced in an opinion handed down by Judge Hobson, while the opinion reversing the Fayette Circuit Court, and remanding the Cockrell case for further trial, was written by Court Commissioner Carroll.

Victory For Commonwealth.

The rulings announced by the Court of Appeals are a decided victory for the Commonwealth and the prosecution in the two cases. By interrupting the proceedings in the Breathitt court, a continuance which the Commonwealth desired, was secured; the indictments against Hargis are sustained, it being held that he may be convicted if he was absent at the time the homicide was committed and was an accessory before the fact to the murder; and, in the trials directed now to be held, the presiding Judge must go to the jury wheel of the county to secure a jury. Briefly stated, the rulings announced by the court are:

In the Cockrell case, from Fayette county:

"It may safely be declared as the law in this Commonwealth that the principal actor, the aider and abettor, and the accessory before the fact are all principals in the first degree and equally guilty, and may be so accused and convicted. In fact, an indictment such as the one before us only charges one offense, that of murder, but, as authorized by section 128 of the Criminal Code, it is described as having been committed in different modes and by different means. The trial Judge should therefore, the evidence authorizing it, have instructed the jury as requested by the Commonwealth. The Commonwealth requested that instructions be given that defendant might be convicted of being an accessory before the fact."

Ruling In Carnes Case.

In the Cox case, from Breathitt county:

"It is not necessary that a Special Judge shall be a resident of the district. Judge Carnes possessed all the qualifications of a Circuit Judge and was competent to sit.

"It was not necessary that the regular Judge of the District should call the special term. The Special Judge possessed all the powers of the regular Judge.

"The action of the Circuit Judge in overruling a motion for continuance was evidently based upon the ground that witnesses could probably be secured. The Circuit Judge must necessarily exercise a sound discretion in the matter of continuance.

"Judge Carnes was right in holding the indictment good and a reference to the grand jury unnecessary. In the case of Commonwealth vs. Hargis, this day decided, this court has reversed the case referred to, in which the indictment was held insufficient to warrant the conviction of defendant as an accessory before the fact.

"Under the facts shown the Circuit Judge did not abuse a sound discretion in deciding to appoint an Ellisor to act in lieu of the Sheriff.

Right To Try In Order.

"The court had a right to try the case as they stood on the docket. As the Special Judge has all the powers of the regular Judge, the section 2,244 of Statutes applies to the Special

